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7 Attorneys for Plaintiff  
AXIS SURPLUS INSURANCE COMPANY

9  
10 UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

11 AXIS SURPLUS INSURANCE COMPANY,  
12 An Illinois corporation,

13 Plaintiff,

14 v.

15 PACIFICAP CONSTRUCTION SERVICES,  
16 LLC, erroneously referred to as PACIFICAP  
CONSTRUCTION CO., an Oregon limited  
liability company, PACIFICAP PROPERTIES  
17 GROUP, LLC, an Oregon limited liability  
company, PACIFICAP HOLDINGS XXIX,  
18 LLC, a Nevada limited liability company,  
CHEYENNE APARTMENTS PPG, LP, a  
19 Nevada limited partnership, AMERICAN  
ASPHALT & GRADING COMPANY, a  
20 Nevada corporation, ORION ENGINEERING  
AND SURVEYING, INC., a Nevada  
21 corporation, DEAN RASMUSON, an  
individual, OTAK NEVADA, LLC,  
22 an Oregon limited liability company,  
STATE OF NEVADA, ex rel., NEVADA  
23 DEPARTMENT OF TRANSPORTATION,  
an agency of the State of Nevada,  
24 AMERICAN FAMILY INSURANCE  
COMPANY, a foreign surety transacting  
25 business in the State of Nevada, A. I. SOUTH  
INSURANCE COMPANY, a foreign surety  
26 transacting business in the State of Nevada,  
ADVANCED CONSTRUCTION SERVICES,  
27 LLC, a Nevada limited liability company, ACS  
CONTRACTING, INC., a Nevada corporation  
28 (dba Advanced Construction Services, Inc.),  
MICHAEL J. HUNTER, an individual, GARY

Case No.: 2:10-CV-02093-GMN-GWF

**PLAINTIFF'S EXPEDITED MOTION  
FOR VOLUNTARY DISMISSAL  
WITHOUT PREJUDICE**

**AND ORDER**

**Bullivant|Houser|Bailey PC**  
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1 L. KIRKLIN, an individual, TAMILO T.  
 2 AFUSIA, an individual, RONALD M.  
 3 PHILLIPS, an individual, CHAD  
 4 RENNAKER, an individual, JASON Q.  
 5 RENNAKER, an individual, FRANCISCO  
 6 GUERERRO, an individual, DARLENE  
 7 BECERRA, as Special Administrator of the  
 8 Estate of LORI ANN BECERRA, an  
 9 individual, ADRIAN MICHAEL BECERRA, a  
 10 minor, individually, by and through his  
 11 Guardian Ad Litem, DARLENE BECERRA,  
 12 an individual,  
 13 and CHRISTOPHER WATKINS,  
 14 an individual, and DOES I through XXX,  
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 16 Defendant.

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**PLAINTIFF'S EXPEDITED MOTION FOR  
VOLUNTARY DISMISSAL WITHOUT PREJUDICE**

Plaintiff AXIS SURPLUS INSURANCE COMPANY, by and through its counsel of record, hereby moves this Honorable Court for an Order granting Voluntary Dismissal of this action without prejudice pursuant to FRCP 41(a)(2). By this Motion, AXIS heeds the Court's directives regarding dismissal of the matter given at the hearing in this matter held May 17, 2011. Pursuant to the Court's directives, AXIS moves that a Dismissal be granted without prejudice and without any award of attorneys' fees and/or costs to any party.

AXIS requests expedited consideration of this Motion for Voluntary Dismissal so that the Court may consider the request concurrent with the Court's pending decision on AXIS's Motion for Stay Interpleader and for Authorization to Use Interpleaded Funds to Participate in Joint Offers of Judgment in the Underlying Case. The pending Motion to Stay would be rendered moot by an Order granting the Dismissal.

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This Motion is made in good faith and for the reasons stated herein.

DATED: May 18, 2011

BULLIVANT HOUSER BAILEY PC

By /s/ Kristol Bradley Ginapp

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Attorneys for Plaintiff

AXIS SURPLUS INSURANCE COMPANY

**ORDER**

**IT IS SO ORDERED** this 19th day of May, 2011.

  
\_\_\_\_\_  
Gloria M. Navarro

United States District Judge

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